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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/635,935	08/10/2000	Devon A. Rolf	200.10101	6337
57855	7590	07/26/2006	EXAMINER	
GOFigure, L.L.C.			LANEAU, RONALD	
26950 OLD KANSAS CITY ROAD			ART UNIT	
PAOLA, KS 66071			PAPER NUMBER	
			3627	

DATE MAILED: 07/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/635,935

Applicant(s)

ROLF, DEVON A.

Examiner

Ronald Laneau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-9,12-32 and 35-88 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9,12-32,35-88 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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Response to Amendment

1. The amendment filed on 5/5/06 has been entered. Claims 66-88 are now added and claims 1, 2, 4-9, 12-32, and 35-88 are now pending.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 60 and 64 recite the limitation "said first radio frequency" in lines 8-9, Claims 61 and 65 recite the limitation "said first frequency" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 4-9, 12-32, and 35-88 rejected under 35 U.S.C. 103(a) as being unpatentable over Walsh et al (US 6,144,848) in view of Woodward (US 6,434,159 B1).

As per claims 1, 2, 60, 61, 66-78 and 81-86, Walsh discloses a device comprising a processor (fig. 1, 122); a memory (fig. 1, 128); an input (fig. 1B, 127); a display (fig. 3, 306); a microphone (fig. 1B, 129); a speaker (fig. 1B, 126); and a transmitter for transmitting voice and

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data via a first frequency, wherein said first radio frequency comprises a cellular frequency (fig. 1); a second transmitter, wherein said second transmitter is a short range transmitter for transmitting at least data via a second radio frequency (fig. 1) a portable housing 120 for nonremovably containing, in ordinary use said device, said processor, said memory, said input, said display, said microphone, said speaker, said first transmitter and said second transmitter, wherein said device is a portable cellular phone, wherein said memory has data indicative of monetary units stored therein (col. 7, lines 3-7). Walsh does not explicitly disclose a device that is used to make a remote purchase transaction but Woodward disclose a device that is used to make a remote purchase transaction at a first point of sale terminal that is located remotely from said device, said first transmitter wirelessly transmits, via said first frequency, data indicative of an amount of monetary units associated with said remote purchase transaction, said second transmitter wirelessly transmits data indicative of an amount of monetary units associated with said local purchase transaction (col. 10, lines 25-55, col. 11, line 23 to col. 12, line 16, claim 1, see figs. 2, 3, 13).

Applicants are reminded that functional recitation(s) using the word “for” (e.g. “for use”, “each purchase dealer” etc. as recited in claims 1-16) have been considered but given less patentable weight because they fail to add any steps and are thereby regarded as intended use language. A recitation of the intended use of the claimed invention must result in additional steps. See *Bristol-Myers Squibb Co. v. Ben Venue Laboratories, Inc.*, 246 F.3d 1368, 1375-76, 58 USPQ2d 1508, 1513 (Fed. Cir. 2001) (Where the language in a method and system claim states only a purpose and intended result, the expression does not result in a manipulative difference in the steps of the claim.). If Applicant(s) desire to give the phrase greater patentable

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weight, the Examiner respectfully recommends Applicant(s) remove "for use". Like always, such modification(s) must not constitute new matter and be supported in Applicant(s)' specification.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the transaction system as taught by Woodward into the system of Walsh because it would provide a new and improved system for remote item ordering by providing communication secure communications between the handheld device the POS terminal that would allow a financial transaction to take place.

As per claims 4-8, 12-14, 27-32 and 35-37, Walsh discloses a portable device cellular (see figs. 4, 5) but does not explicitly disclose any other wireless telecommunications devices such as portable computer, laptop or notebook computer, pda, pager and wherein transmission of data can be wirelessly done via radio frequency, short range wireless link (bluetooth), local area network, cellular link, etc as claimed (see abstract). These types of wireless communication device are old and well known in the business art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize any other types of communication devices as claimed because it would provide a system for telecommerce that would offer secure, optionally-encrypted communications and with storage of sensitive confidential data in a secure location.

As per claim 9, Walsh discloses a device wherein said data indicative of a selected amount of monetary units is transmitted wirelessly to said point of sale terminal via a radio frequency (col. 14, lines 19-23).

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As per claims 15 and 38, Walsh discloses a keypad input used for dialing telephone numbers and for entering a personal identification number (PIN) or ID codes wherein said PIN must be entered into said device to complete said transaction (col. 15, lines 33-40).

As per claims 16-26 and 39-49, Walsh does not explicitly disclose a specific point-of-sale but it is old and well known in the business art that a point of sale can be any of the followings: a television, a vending machine, a fast-food drive trough terminal, a gas pump, a check-out station at a retail store, a restaurant, an online store and wherein said transaction is completed while said device is communicating via a voice link with said point of sale terminal as claimed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize any of the locations as a point-of-sale for the device of Walsh because it would real-time telecommunications that allow the device to behave like a sophisticated "super computer".

As per claims 50-59, Walsh discloses a smart cart engine chip but teach a processor that is capable of selecting the amount of monetary units from the memory for transmission to the point of sale as claimed and further a display screen that is also capable of displaying information on the order and displaying an electronic receipt as claimed (col. 15, lines 33-41).

As per claims 62-65, Walsh discloses a device that is capable of being operated in physical proximity of the point-of-sale as claimed.

As per claims 79 and 80, Woodward discloses a device wherein said first transmitter that transmits on said cellular frequency operates according to a standard used in at least one of the following wireless communications systems: CDMA, TDMA, iDEN, CDPD, PCS, PDC and WAP as claimed (col. 4, lines 7-11).

Response to Arguments

6. Applicant's arguments filed 5/5/06 have been fully considered but they are not persuasive.

Applicant argues that Walsh does not disclose or suggest a device that has first and second transmitters, one for transmitting via a first, cellular frequency for making a remote transaction at a remote point of sale terminal and one being a short range transmission via a second radio frequency for making a local purchase at a local point of sale terminal." In response to Applicant's arguments, although the Examiner believes that the system of Walsh is capable of having a first and second transmitters, the newly added reference discloses such limitations. As a result, claims 1, 2, 4-9, 12-32, and 35-88 are finally rejected.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (571) 272-6784. The examiner can normally be reached on 5:30 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Ronald Laneau
Primary Examiner
Art Unit 3627

7/22/06

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